

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
NOVEMBER 5, 2014**

The Iowa Racing and Gaming Commission (IRGC) met on Wednesday, November 5, 2014 at Prairie Meadows Racetrack & Casino (PMR&C). Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and members Rich Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti stated the purpose of the meeting is to receive public comment on the pari-mutuel license application submitted by the Iowa Greyhound Association (IGA) to conduct dog racing and pari-mutuel wagering at the facility in Dubuque. He advised this meeting is different than other meetings taking place across the state; noting the Commission has engaged the services of a consultant pursuant to legislation approved during the last session to assist the Commission in the distribution of the cessation fund. Chair Lamberti stated that is a separate matter from the purpose of this meeting. He advised the Commission has conducted public comment meetings with regard to other license applications as well as a presentation and question and answer session about the actual application submitted to the Commission.

Chair Lamberti stated those individuals signed up to address the Commission know their order. He advised the Commission would prefer comments to be 3-5 minutes in length; noting some have requested their times be combined in lieu of all of the individuals speaking. Chair Lamberti indicated that is acceptable. Chair Lamberti called for the first speaker, and requested that each speaker identify themselves for the record.

The first speaker was John Filipelli. He advised his family resides in Iowa; and he and his wife operate a contract kennel at Bluffs Run. They are interested in the situation before the Commission today due to the money involved for racing. Mr. Filipelli stated the affiliates of Filipelli and Miner Racing were going to allot their time to Dean Miner in order to be more efficient in the time allotted.

Dean Miner stated his partner, Mark Spahos, had just distributed a binder of information. He noted they had additional copies in the event anyone else wanted one. Mr. Miner stated he is a partner of the Filipelli family, and is a resident of Wheeling, West Virginia, but has chosen to move his business to Iowa, and had every intention of moving to Iowa and building a farm, however, with the turn of events, that will not be possible. Mr. Miner stated he and other kennel owners have been made aware the IGA is going to request escrow monies that have built up in a fund since 1995 established by Bluffs Run Casino in order to start their new venture in Dubuque. Mr. Miner stated the IGA has been in existence for about 20 years, but does not exist anymore.

He advised the organization still calls itself the IGA but in his mind it is the IGA 2.0. Mr. Miner stated the old entity represented all of their interests and was a non-profit entity. He questioned how the IGA could have any access to the monies earmarked for the development of greyhound racing and purse structures, etc. in order to transfer the funds to Dubuque for use by the IGA 2.0, which is a for-profit entity. Mr. Miner stated the IGA 2.0 is a completely new group, a new set of circumstances, and he believes there would be legal ramifications of taking the money from the escrow account to use for their own new for-profit interests.

Mr. Miner stated various TV newscasts and newspaper articles over the last couple of years made it very clear the two casinos interests wanted out of subsidizing the greyhound business. The casinos offered the state \$70 million approximately two years ago, as well as last year. This time around the casino interests offered the funds to the greyhound industry. He noted newspaper articles in the Dubuque area indicated the funds could be used for city programs and developing better projects for the City of Dubuque.

Mr. Miner stated the license the IGA 2.0 is applying for today is a subsidized license, but instead of Mystique and Harrah's doing the subsidizing, the IGA wants the greyhound people to subsidize the license. Mystique and Harrah's will pay \$72 million to the state in order to cease conducting greyhound racing at their facilities. It is his opinion the Legislature said they were waiting for the facilities and the IGA to submit an agreement to them. He noted that while the casinos and the Legislature wanted out of the greyhound racing business, there was one party, the IGA/IGA 2.0, who wanted to be involved in detailing how it all worked. Mr. Miner stated the IGA wants to put everyone in the subsidizing business; instead of slot machines subsidizing racing in Dubuque in 2015, 2016, 2017, or whatever the plan calls for, the IGA wants greyhound interests to subsidize racing. Mr. Miner stated that he does not want to be a slot machine, nor does it serve the best interests of all the greyhound families, farmers, dog owners and investors to take half of \$72 million and subsidize a handful of people to race at Dubuque for a few years. He called that the definition of inequality. Mr. Miner indicated there is a risk of impropriety.

With regard to the legislation that was passed, Mr. Miner advised the main proponent was the IGA Executive Board, through their legal counsel – Jerry Crawford, who is also the legal counsel for the members of the IGA. Mr. Miner then referenced excerpts from an August 2014 IGA meeting and from the legislation that was passed. Mr. Miner noted the legislation allows purse payments made from January 1, 2010 through December 31, 2014 to be utilized in determining how the remaining cessation funds would be distributed. It is his belief that certain IGA Executive Board members would each get \$4 million of the funds.

Noting that a number of racetracks have closed over the past few years, and the likelihood that more will be shuttered via legislation in the upcoming year, Mr. Miner questioned why the IGA 2.0 wants to use half of \$72 million to subsidize their organization to race a few years. He indicated the intent is not to make this issue personal, but find solutions that are better for everyone invested in the industry rather than a handful of individuals.

Mr. Miner stated the Filipelli and Miner group sent a certified letter, with more to follow, to the IGA and the Executive Board requesting information. They received none; nor were any

meetings held with the membership. He advised that two days before the end of the legislative session, there was an invitation only phone call during which the members were asked to vote on two issues: 1) do you support a solution of the sort outlined by Jerry Crawford; and 2) do you authorize Jerry Crawford to continue negotiating and the IGA Board to give formal approval to any result Jerry Crawford comes up with or the current solution as explained to you.

Mr. Miner noted the legislation requires the IGA to run a minimum of 60 dates; with 9 race cards per performance, which could easily be done in 6-8 weeks. Current race cards contain 15 races per performance. He pointed out the IGA is requesting \$36 million to run the program for five years, or \$7.2 million per year. He questioned the value to the Iowa economy if the IGA is allocated \$1.2 million for expenses, leaving \$6 million for purses. Mr. Miner stated the IGA, upon learning how much it was going to cost to run a live meet, reached out to an expert consultant named Jim Gartland, one of the foremost experts on running greyhounds, running racing departments. The IGA asked Mr. Gartland how they could cut costs. Mr. Miner advised he contacted Mr. Gartland and asked how many dogs would be needed to run 60 dates with 9 races per card. Mr. Gartland advised him it could be done with only 250-350 dogs, or the equivalent of 6-8 kennels. Mr. Miner pointed out that most of the IGA Executive Board members are kennel owners. He stated that Mr. Crawford indicated at the IGA meeting that anyone who wanted to race with the IGA would be able to do so. Mr. Miner advised there are 6,000 Iowa-bred greyhounds registered with the Iowa Department of Agriculture. There are also thousands of dogs outside of Iowa that may want to race in Dubuque as well.

He advised the IGA has seven executive board members, most of whom are kennel owners. The minutes of the August 24<sup>th</sup> meeting state the IGA Executive Board cannot enrich themselves. They will establish a three-person panel to review the kennel applications and determine which kennels operators will be chosen.

Mr. Miner advised that all of the funds are going to come from simulcasting. Again referring to the August 24<sup>th</sup> minutes, Mr. Miner pointed out that Mr. Crawford indicated the IGA would make some changes to the current system, and would hopefully see revenues of \$40 million. Mr. Miner noted Mr. Crawford stated the IGA has the right, legislatively, to put simulcast facilities everywhere as long as there is only one per county. He advised that Mr. Crawford also indicated the most lucrative simulcast product is horse racing from outside Iowa.

In closing, Mr. Miner requested that the IRGC investigate the involvement of the IGA Executive Board and legal counsel and the deals made to get the legislation passed; how the IGA legal team will be paid and how much, with an emphasis on lead counsel, Jerry Crawford; to investigate the relationship between Mr. Crawford and the IGA Executive Board members in relation to their outside financial relationships with an emphasis on thoroughbred ownership; to investigate possible past conflicts of interest concerning Mr. Crawford and potential future conflicts as Mr. Crawford has complicated and lengthening ties to the horse racing industry in Iowa despite representing the greyhound industry and appears to be in charge of negotiating a simulcast agreement between the two parties in the near future. He further requested IRGC to request a business plan from the IGA with precise costs and expected greyhound revenue from racing at Dubuque during the first five years when the \$36 million is to be disbursed. Mr. Miner further

requested the IGA Board provide a cost and expected revenue to be generated by racing at Dubuque for years 6-10 when the membership feels there will be insufficient funds to even cover employee costs after the \$36 million subsidy is gone. He also requested copies of all agreements and contracts the IGA Board has agreed to with regards to persons connected with the Dubuque racing project, projections of the expected purse amounts after the \$36 million is exhausted. Mr. Miner requested the Commission to expand the role of Spectrum Gaming to include future viability of racing at Dubuque due to their belief the only reason the IGA is seeking the live racing license is to get to the large simulcast funds. He also requested the Commission look at the impact on Iowa's agri-business economy. Mr. Miner asked the Commission to seek Spectrum's opinion of the greyhound industry and its future viability; if they are not satisfied with the responses, he asked that the entire \$72 million be paid out to all interested parties in Iowa racing. He also requested an independent auditor review the all relevant documents.

The following individuals addressed the Commission:

Pete Temple, a greyhound racing fan and a media person, stated he has been bothered by some of the news articles surrounding this topic. He noted many of the articles contained the words fading interest, waning, declining, failing, etc. Mr. Temple stated those articles are not telling the whole story; that Iowans no longer know about greyhound racing, not that they don't care. He indicated he was in favor of granting a license to IGA, as it would give them the opportunity to properly promote the races; he stated there has been no promotion or advertising in the recent past. Mr. Temple expressed his support of simulcasting as it provides additional opportunities to the racing fan, and provides a revenue stream to help sustain purses; and of the 5-year window for the license as he does not believe there has been a fair test of greyhound racing in Iowa because of the lack of promotion. It is his opinion the five-year license would provide an opportunity to show that greyhound racing can make a come-back in Iowa with advertising and promotion.

John Herrig, Directing Business Representative for the Machinists Union for District 6, advised the union represents the pari-mutuel employees at Mystique Casino. He addressed the issue of jobs for the members, noting the only way they will continue to have a job is if a license is granted. Mr. Herrig expressed the union's support of the license application, but also expressed concern about the number of races that will be allowed. They would prefer unlimited races, the race card would have more than nine races, and the meet would be longer than 60 days.

Rick Bartley, owner of Bartley Corporation in Abilene, Kanas, which has a kennel contract at Horseshoe Casino/Bluffs Run Greyhound Park in Council Bluffs, IA, stated they first came to Bluffs Run in 2000. Mr. Bartley, defending out-of-state kennels, advised that he has purchased meat for his 42-acre farm which houses approximately 300 head of greyhounds, and has trained a significant number of Iowa greyhounds as there are no training tracks in Iowa. He stated that he purchases a lot of Iowa-bred greyhounds. Mr. Bartley also expressed concern for his employees. He raised the issue of a conflict of interest with the IGA holding the pari-mutuel license and then holding the contracts. He then asked if the \$36 million that is going to the IGA will be returned to the funds held by the IRGC for distribution in the event the venture fails in Dubuque.

As that concluded Public Comments, Chair Lamberti moved to the IGA's presentation regarding their license application.

Bob Hardison, President of the IGA, advised his wife and several Board members were present. He turned the floor over to Jerry Crawford, the IGA's legal counsel since 1990. Mr. Hardison asked the Commission to approve the IGA's request for a license. With regard to Mr. Miner's comments, Mr. Hardison stated he received significant input from him in the early stages, and had retained a text message in which Mr. Miner stated "his group was on board and supported Jerry and Don".

Mr. Crawford introduced Jim Quilty and Nick Mauro, who were present as co-counsel for the IGA. Before starting the presentation regarding the license application, Mr. Crawford made the following observations regarding previous comments:

- The IGA continues to be a non-profit organization under their corporate charter.
- Even though they are only required to race 60 days per the legislation; the IGA application requests 120 days for 2015 with no reduction in the number of races, and have suggested increasing the number of races per performance and no reduction in the number of dogs.
- The information provided to "Gartland" was completely erroneous and inconsistent with the public record that exists with the IRGC. Mr. Crawford stated he had never heard of Mr. Gartland or spoken with him, even though he is supposed to be the IGA's expert witness. He advised that Messrs. Quilty and Mauro also have not heard of him, or spoken with him.
- Mr. Crawford noted there was a suggestion there should not have been a second-chance fund of \$36 million to operate racing at Dubuque. He made the following observations: That is what the Legislature put in the law that was passed and signed; that there would be two funds – one to provide a soft landing and the other for second-chance racing. He indicated the IGA would have come under attack from its members if it hadn't figured out a way to preserve breeding and racing of greyhounds in Iowa. Mr. Crawford noted that Article 3 of the IGA's corporate charter states its sole and exclusive purpose is to further the best interests of breeding and racing greyhounds in Iowa.

Mr. Crawford moved to the presentation, noting that greyhound racing started in 1985 in Dubuque, and 1986 in Council Bluffs. He noted at that time those two communities were down and out on their luck; and they owe an enormous community debt of gratitude for what greyhound racing did for their communities in the 1980's. Indian casinos arrived a few years later; and once Indian casinos and slot machines existed, greyhound revenues began to decline and that has been true in every jurisdiction where greyhound racing has tried to compete with slot machines. In 1995, the Iowa racetracks sought legislation allowing them to have slot machines at the tracks. The tracks did not have sufficient votes to get that accomplished; they approached the IGA for assistance and agreed that if they got slot machines they would be a life

partner in supporting purses for greyhound racing. Mr. Crawford noted the “marriage” between the tracks and the IGA eventually crumbled as the tracks were frustrated by the amount of money they were obligated to give the greyhounds in purses; they had other things they wanted to do with the money. Mr. Crawford credited Jesús Avilés and Bo Guidry, who spent hours figuring out a way to end greyhound racing in Iowa. The agreement that was reached called for a payment of \$72 million in cash; \$36 million for the soft landing; \$36 million for the second-chance racing in Dubuque; and an additional \$19 million in racing purses over what was initially contemplated by the tracks. When simulcast revenues are included, which the IGA was given the authority to do, Mr. Crawford stated the agreement totals over \$100 million for the greyhound industry from the negotiated “divorce settlement”. Mr. Crawford stated he no longer thinks of the situation as a divorce as the IGA is working with Mr. Avilés with regard to the racing at Dubuque in 2015 and with Mr. Guidry on the possibility of simulcasting at Horseshoe Casino in the future. He clarified the IGA is not allowed to simulcast in every county in Iowa; they are allowed to simulcast on site at an existing casino licensee’s premise if the facility so chooses. The statute only allows one simulcast facility per community; therefore, precluding simulcasting at all three Council Bluffs properties.

Mr. Crawford pointed out there had only been one other settlement in the history of greyhound racing in the country, which occurred in Rhode Island when the kennels received \$2 million. He stated the agreement reflects favorably on the leadership the Board of Directors of the IGA has provided in representing their membership, and is doing a great job as stewards in trying to move forward under difficult circumstances.

With regard to the soft-landing formula, Mr. Crawford noted no one receives any funds until the Commission makes that determination. He stated he informed the IGA board they were never going to discuss what the soft-landing formula should be as they had a conflict of interest. He advised the board has never had any such discussion; however, they do have the ability as individuals to attend the meetings being held by Spectrum Gaming to express their personal views. Mr. Crawford stated the IGA has not taken any position on the soft-landing funds since the legislation was passed and signed into law.

Mr. Crawford advised there was a telephonic meeting involving all of the IGA membership; the vote was 42-1 to pursue a solution similar to what was adopted; the vote was 41-3 to give authority to himself and Don Avenson, the IGA’s lobbyist, to continue to pursue a solution. He stated the IGA held its annual meeting in August to adopt new By-laws to enable the IGA to conduct the business outlined by the statute; and the Board of Directors was up for election. They were re-elected on a vote of 61-7.

With regard to racing in Dubuque, Mr. Crawford noted there is a funding stream for live racing; and advised that the lease with the City of Dubuque and sublease with the Dubuque Racing Association (DRA) were approved unanimously by the Dubuque City Council at their meeting last Monday. He stated the second chance at Dubuque is important as it provides Iowa with the opportunity to keep the nation’s top greyhound breeding program alive; and extended live racing at Council Bluffs through 2015 which will create an opportunity for individuals to clear a significant number of greyhounds through the system and through the end of their useful lives as

racers and enter the adoption program at Bluffs Run. He advised there would be no reduction in the number of kennels at Dubuque. Mr. Crawford stated the IGA is going to appoint a three-person committee to help review the kennel applications; these individuals will be knowledgeable about greyhound racing but will have no stake in the live racing at Dubuque. It is everyone's intent that no one will be excluded from racing at Dubuque. He advised purses will be greater in 2015 than they were in 2014; and will be easily sustainable under the budget presented. With regards to the management structure, Mr. Crawford advised there would be no change; Brian Carpenter will continue to be the Director of Racing and Jean Hallahan will continue to be the Director of Mutuels. The tellers are also going to continue. Mr. Crawford stated the IGA has brought Tom Timmons and Matt Kingdon on board as consultants, both of whom have worked for the IGA in the past.

Mr. Crawford stated that simulcasting has not been a priority from the standpoint of the quality of the experience, whether that was from electronics, food and beverage or anything that made the area a desirable location. He stated the IGA will start slowly, but hopes to create quality shared destinations in the facilities that will attract young people that might want to watch football or basketball games but don't currently have a location with a good electronic display, which will help the casinos as it will help to increase foot traffic.

Mr. Crawford stated he believes the IGA has met all of the requirements of the Iowa Code and Administrative Rules for a license. He noted IRGC has selected the IGA as the recipient of the Iowa Greyhound Promotion Fund for 22 years, which is an indication of the IGA's worthiness to receive the license.

Chair Lamberti noted the Commission is in a unique situation with the Legislation as opposed to other applications the Commission has dealt with in the past, but advised all of the Commission's financial, integrity, and operational requirements will be the same for the IGA as any other licensee if a license is granted.

Chair Lamberti asked Mr. Crawford if the proposed budget submitted is the budget for 2015. Mr. Crawford indicated it was; that it was prepared by Matt Kingdon and Tom Timmons, who described it as very conservative; meaning they overstated costs and understated revenues to make sure that if anything went wrong the IGA would still be fine.

Chair Lamberti asked about the purse amount in Dubuque for 2014. Mr. Crawford advised they were \$2.18 million. Chair Lamberti noted the IGA is proposing purses of \$3.2 million. Mr. Crawford answered in the affirmative.

Chair Lamberti noted that Mr. Crawford had advised the agreements with the City of Dubuque had been approved; he asked where they were at in their discussions with the DRA. Mr. Crawford advised the negotiations have been concluded, and copies of the agreement were available. He indicated the agreement had been submitted to the City of Dubuque for approval the previous Monday, and was unanimously approved.

Commissioner Mertz asked if, or how, the horsemen associations have a place in this scenario. Mr. Crawford indicated the horsemen's group lobbied against the bill. He stated that he is a horse person. He advised the Iowa Horsemen's Benevolent and Protective Association (IHBPA) has the ability and statutory permission to reach out to HBPA organizations in other states if an agreement has not been reached with the track as to revenue sharing on imported horse signals into Iowa, and request that particular state not take Iowa's signal until an agreement has been reached. Mr. Crawford noted Bluffs Run and Mystique have imported horse signals for a number of years, and is not sure why this has become an issue at this time. He stated his belief that the horse and dog racing interests have more in common than they have differences. He pointed out that the horsemen's groups were given the authority to have advanced deposit wagering. Mr. Crawford stated the IGA has asked the horsemen's groups to let them simulcast their races from PMR&C and anywhere else they have a simulcast facility and the IGA would give them 100% of the profit. This would expand their handle on horse racing, which makes the races more attractive to people out-of-state to bet on. He stated that up to this point the horsemen have not been interested. Mr. Crawford stated the issue is unresolved at this time, but will continue to be a topic of discussion.

Commissioner Heinrich noted many in the Council Bluffs area have expressed concerns about the distribution of funds being equitable. Another concern expressed in the western portion of the state is their ability to race in Dubuque. He noted Mr. Crawford had stated that racing in Dubuque is open to everyone. He asked if that is in writing. Mr. Crawford answered in the affirmative.

Chair Lamberti asked about the three-person panel that will be reviewing the kennel applications. Mr. Crawford advised those individuals will not be involved in racing at Dubuque, but will have a background in greyhound racing.

Chair Lamberti stated he had been asked if the Dubuque facility would look different once the IGA begins operating the racetrack portion of the facility, so that it is apparent it is a new licensee. He asked Mr. Crawford how he envisions the facility will appear to someone who is used to going to the current facility. Mr. Crawford stated he hopes the current racetrack portion of the facility looks nothing at all like it does today. He noted there has been zero incentive for Dubuque or Bluffs Run to spend one cent more on greyhound racing than required. Racing has not been promoted, nor is the atmosphere on the track-side of the facility attractive. Mr. Crawford stated the concept behind the second-chance racing was to provide the IGA an opportunity to see if they could make it enough better that it was self-sustaining.

Chair Lamberti asked Mr. Ohorilko if there were any questions from staff. Mr. Ohorilko asked when the IGA anticipates being ready to accept simulcasting wagers should they receive a license; would it be immediately or would they need some time. Mr. Crawford stated they would be ready to accept simulcast wagers on January 1, 2015. He advised that he could not say what it would look like as there will need to be some construction work done, but the footprint of the area has been established. He indicated it might be on a smaller scale in the beginning until the construction work can be completed.



Hearing no further comments or questions concerning the IGA's license application, and there being no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Mertz so moved. Commissioner Heinrich seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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BARBARA BLAKE